

1           A       I am responsible for the sales and  
2     marketing implementation and strategy of the  
3     NFL Network, and also NFL.com, but,  
4     specifically, to the NFL Network sales and  
5     marketing.

6           Q       Did you have experience in sales  
7     and marketing, is that advertising?

8           A       It is. It's advertising sales.

9           Q       Did you have experience in  
10    advertising before you came to the NFL  
11    Network?

12          A       I have, yes.

13          Q       At the risk of not wanting to age  
14    you, how far does that experience go back?

15          A       Approximately three decades.

16          Q       In your experience, both at the  
17    NFL Network, and prior to joining the NFL  
18    Network, do networks depend on advertising  
19    networks, like the NFL Network?

20          A       Yes, they do.

21          Q       How so?

22          A       They are a source of revenue to

1     amortize the cost of their programming, and  
2     basically reach their consumers and viewers.

3             Q       Do you recall offering some  
4     written testimony in this case?

5             A       I do.

6                     MR. SCHMIDT: Your Honor, if I may  
7     approach, I'd like to -

8                     JUDGE SIPPEL: Please, do.

9                     MR. SCHMIDT: -- mark this into  
10    evidence. I've marked for identification a  
11    document that says, "Written Testimony of  
12    Ronald Furman", as ENT 194.

13                    (WHEREUPON, THE DOCUMENT REFERRED  
14                    TO WAS MARKED AS EXHIBIT ENT 194  
15                    FOR IDENTIFICATION.)

16                    BY MR. SCHMIDT:

17             Q       Is this your written testimony in  
18    this case, Mr. Furman?

19             A       It is.

20             Q       You, in fact, signed it?

21             A       I did.

22                     MR. SCHMIDT: Your Honor, at this

1 point, we'd like to move it into evidence.

2 JUDGE SIPPEL: What would the  
3 number be? Do you have on there?

4 MR. SCHMIDT: 194. It's not  
5 stamped.

6 JUDGE SIPPEL: What's identified  
7 as 194.

8 MR. SCHMIDT: Yes, sir.

9 JUDGE SIPPEL: I'm instructing --  
10 this is my instruction to the reporter. This  
11 document will be marked as ENT 194 for  
12 identification, and you're moving it into  
13 evidence at this time, also?

14 MR. SCHMIDT: Yes, sir.

15 JUDGE SIPPEL: Is there any  
16 objection?

17 MR. PEREZ-MARQUES: No objection,  
18 Your Honor.

19 JUDGE SIPPEL: Okay. Then ENT 194  
20 is identified as received in evidence as 194.

21 (WHEREUPON, THE DOCUMENT REFERRED  
22 TO, PREVIOUSLY MARKED EXHIBIT NO.

1 ENT 194 FOR IDENTIFICATION, WAS  
2 RECEIVED IN EVIDENCE.)

3 JUDGE SIPPEL: You may proceed,  
4 sir.

5 MR. SCHMIDT: Thank you, Your  
6 Honor. I'm going to go through this really  
7 briefly with you, Mr. Furman, because we do  
8 have your written testimony. I want to just  
9 summarize it very quickly for the Court.

10 BY MR. SCHMIDT:

11 Q We were talking about advertising.  
12 In your experience, are there networks that  
13 compete with the NFL Network for advertising?

14 A Yes.

15 Q Could you identify some of those  
16 networks for us?

17 A In the sports arena, it would be  
18 the family of ESPN Networks, ESPN1, 2, and the  
19 variety of those, the Major League Baseball  
20 Network, networks such as Versus, the Golf  
21 Channel, MBA channel, and so on.

22 Q And how do you know those networks

1 compete with your network, the NFL Network?

2 How do you know those advertisers, I'm sorry,  
3 complete with your network?

4 A In the broadest sense, those  
5 networks are considered part of the sports  
6 genre, and the sports programming. And  
7 advertisers, many times, preselect that they'd  
8 like to be involved in the sports environment  
9 for a variety of reasons, and then determine  
10 which sports networks that they'd like to  
11 place their advertising on.

12 Q You referred -

13 JUDGE SIPPEL: Does that include  
14 MASN, also?

15 THE WITNESS: Excuse me?

16 JUDGE SIPPEL: MASN, does that  
17 include MASN? You said MLB, what about MASN?

18 THE WITNESS: It might on a select  
19 basis, Your Honor.

20 JUDGE SIPPEL: So you deliberately  
21 left them off that list.

22 THE WITNESS: There are a variety,

1     there are a large number of them.

2                   JUDGE SIPPEL:   Okay.   These are  
3     examples.

4                   THE WITNESS:   Yes.

5                   JUDGE SIPPEL:   Thank you, sir.

6                   BY MR. SCHMIDT:

7           Q       You refer in your written  
8     testimony to a threshold, a 50 million  
9     subscriber threshold.   Can you explain what  
10    you mean in referring to that threshold?

11          A       Advertisers use a variety of  
12    metrics to determine how they will look at  
13    different sports networks, and sports  
14    properties.   And, as a loose benchmark, 50  
15    million tends to be about the number that  
16    gives about half of the cable homes in the  
17    United States, which is approximately 92-98,  
18    so they look at that as giving it an  
19    opportunity to kind of have a footprint.  
20                   It's point of entry.   It's not a  
21    hard and fast rule.   It's an opportunity for  
22    them to start to pre-categorize which networks

1 they may want to invest in. It gives them an  
2 understanding of what ratings potential might  
3 be.

4 Q What happens the further that a  
5 network falls below that threshold for their  
6 advertising?

7 A The smaller the distribution, the  
8 smaller the network, the more difficult it is  
9 to be considered by advertisers for their ad  
10 dollars.

11 Q Does it make it impossible for  
12 every advertiser?

13 A I don't believe impossible is the  
14 way to do it, but very difficult.

15 Q Do you believe that Comcast's  
16 tiering of the NFL Network affected the NFL  
17 Network's ability to compete for advertising?

18 A The Comcast decision to remove the  
19 NFL Network from its most basic tiers affected  
20 our distribution level, and then affected our  
21 ability to compete in advertising dollars,  
22 yes.

1 Q How do you know that happened?

2 A We had -- it was a very public  
3 issue that was going on. It happened at the  
4 time of the year that was very important for  
5 us in a pre-selling season, that's commonly  
6 known as the up-front in the advertising  
7 business. And it was mentioned to us by a  
8 variety of clients, and/or the agencies that  
9 they employ to actually purchase and monitor  
10 the advertising time.

11 Q Now, have you -- is it your view  
12 that you've nevertheless had some success in  
13 your advertising since that time?

14 A We had success, yes.

15 Q Do you have an opinion as to  
16 whether your success would have been even  
17 greater had you not been tiered by Comcast?

18 A Advertisers like big ratings.  
19 They like consistent ratings, and they like a  
20 footprint that's as large as it can be. And  
21 there's no doubt that if we had had increased  
22 distribution, we would have additional success



1 in bringing in advertisers.

2 MR. SCHMIDT: That's all I have  
3 for you, Mr. Furman. Thank you. Thank you  
4 for joining us today.

5 JUDGE SIPPEL: All right. You'll  
6 now be cross examined by Comcast's attorney,  
7 Mr. Perez. Your witness.

8 MR. PEREZ-MARQUES: Thank you,  
9 Your Honor.

10 CROSS EXAMINATION

11 BY MR. PEREZ-MARQUES:

12 Q Mr. Furman, it's not your  
13 testimony that the NFL Network's advertising  
14 problems are only because of Comcast  
15 distribution, is it?

16 A No, it is not.

17 Q In fact, it's not the only reason  
18 that the NFL Network has had advertising  
19 problems.

20 A There are a number of reasons that  
21 the NFL Network competes, and doesn't compete  
22 for advertising dollars; distribution being

1 one of them, but not the only one.

2 Q There are a number of reasons that  
3 the NFL Network has lost advertisers, correct?  
4 Besides Comcast distribution.

5 A Not, necessarily, that I'm aware  
6 of.

7 Q Your testimony is that Comcast  
8 distribution is the only reason that the NFL  
9 Network has lost distributors -- lost  
10 advertisers. Excuse me.

11 A Yes.

12 Q Thank you. You'll have to clarify  
13 that point.

14 A The NFL Network, through its  
15 distribution, and its distribution challenges,  
16 has lost advertisers. It is not the only  
17 reason that advertisers may choose, or not  
18 choose the NFL Network.

19 Q And, in fact, those distribution  
20 challenges, some of which don't include  
21 Comcast, are even, themselves, not the only  
22 reason the NFL Network has lost advertisers.

1     Isn't that correct?

2             A       Correct.

3             Q       And it's not the only reason that  
4     the NFL Network has lost advertising dollars  
5     from companies that remained advertisers.

6             A       Correct.

7             Q       In fact, for example, the economy  
8     has affected your advertising revenue, has it  
9     not?

10            A       Correct.

11            Q       The economy has affected  
12    everyone's advertising revenue.

13            A       Agreed.

14            Q       It has affected some companies  
15    more than others, some advertisers more than  
16    others.

17            A       Yes, sir.

18            Q       Companies have had to cut back on  
19    their advertising because of economic  
20    difficulty. Correct?

21            A       Some have, yes.

22            Q       One category of those companies

1 would be car companies, in particular. Isn't  
2 that right?

3 A Yes.

4 Q It's well-known that car  
5 companies, such as [REDACTED] have had  
6 to cut back their advertising budgets because  
7 of the economy.

8 A Specifically, [REDACTED] or  
9 is there a larger group of automotive  
10 companies that we're speaking of?

11 Q Car companies, in general, are  
12 having a tough time this year, aren't they?

13 A The automotive category is  
14 challenged, yes.

15 Q And as part of that challenge,  
16 they've had to cut back on their advertising.  
17 Isn't that right?

18 A It appears that they have. I'm  
19 not the ultimate arbiter of what they actually  
20 do, but I would say that generally in the  
21 early part of 2009, they appear to have cut  
22 back on some of their advertising, yes.

1 Q And in 2008, as well. Correct?

2 A Again, I can't speak for what they  
3 would have spent at other networks, or in  
4 general. All of that's anecdotal.

5 Q Right. You're not privy to the  
6 discussions within the advertisers. Correct?

7 A I'm not privy to the discussions  
8 at the automotive companies, as to where they  
9 may have spent their dollars.

10 Q And it's the automotive companies  
11 who decide how to spend their advertising  
12 dollars.

13 A Ultimately, it's a decision that's  
14 made between the automotive companies and  
15 their advertising agencies. They bring the  
16 advertising agencies as their partner into the  
17 process, and empower them to go out and invest  
18 their advertising dollars.

19 Q But the client, the advertiser,  
20 has the ultimate say. Isn't that right?

21 A Yes.

22 Q They make the decision how to

1 spend their advertising dollars. Isn't that  
2 right?

3 A There's not a yes, or a no answer  
4 to that, because the decision of where to  
5 invest those dollars may, in fact, be made by  
6 the advertising agency advising the client.  
7 The client would generally be the one to  
8 determine if the amount of money that's  
9 invested is appropriate or not.

10 Q And you're not privy to the  
11 conversations within the advertiser as to how  
12 much money to spend on advertising.

13 A For those particular companies,  
14 no.

15 Q For any companies.

16 A No.

17 Q And you're not privy to the  
18 conversations between the advertisers and  
19 their media buyers, are you?

20 A Once again, that's not,  
21 necessarily, a yes or no answer, because there  
22 may be times where we've had, in general,

1 conversations with advertising agencies and  
 2 their clients in the same room, at the same  
 3 forum where they discuss different things that  
 4 they would like to do relative to the  
 5 particular network or networks that you  
 6 represent. So, in that case, you would hear  
 7 their conversation, and their thoughts about  
 8 what they like, and don't like in an effort to  
 9 try to drive their business. But, as an  
 10 overall piece, no, I would not be privy to  
 11 overall conversation.

12 Q It's a fact, isn't it, that  
 13 advertisers and media buyers who advertise on  
 14 the NFL Network, have conversations about that  
 15 decision to which you are not privy.

16 A Correct.

17 Q You have no information about  
 18 those conversations.

19 A Correct.

20 Q Have part of the NFL Network's  
 21 advertising problems been caused by bad  
 22 customer service?

1           A       I'm not aware of that.

2           Q       Are you aware of any instance  
3       where an advertiser complained that the NFL  
4       Network staff was arrogant or rude?

5           A       I'm not aware of a particular  
6       instance. We endeavor, as all companies do,  
7       to make sure that our customer service and  
8       technical backroom operations are up to  
9       standards that are acceptable in the industry.

10          Q       Okay. But, do you understand that  
11       -- do you, in fact, recall that despite that  
12       endeavor, there's been times when you failed,  
13       and, instead, clients believe that your staff  
14       had been rude and arrogant?

15          A       I can't agree to knowing if they  
16       were rude or arrogant. I'm not personally in  
17       knowledge of rude or arrogance. I'm sure that  
18       like any company, there have been times where  
19       we could have done a better job.

20          Q       But you don't recall any  
21       exceptional instance in which a significant  
22       advertiser complained that your staff had been



1     rude and arrogant?

2             A       I do not.

3                     MR. PEREZ-MARQUES: I'd like to  
4     mark for identification, Your Honor, Comcast  
5     Exhibit 510.

6                     JUDGE SIPPEL: 510.

7                     MR. PEREZ-MARQUES: May I  
8     distribute copies?

9                     JUDGE SIPPEL: Please, do. Yes,  
10    to the witness first, two up here.

11                    THE WITNESS: Thank you.

12                    BY MR. PEREZ-MARQUES:

13             Q       Mr. Furman, I'll give you a moment  
14    to read this, but my first question will be  
15    whether you recognize this as an email that  
16    you wrote to Hans Schroeder on October 29th,  
17    2007, with the subject line, [REDACTED]

18                    JUDGE SIPPEL: That's going to be  
19    marked for identification while you're doing  
20    that as Comcast Exhibit 510 for  
21    identification, as Mr. Perez has identified it  
22    on the record.

1 (WHEREUPON, THE DOCUMENT REFERRED  
2 TO WAS MARKED AS COMCAST EXHIBIT  
3 510 FOR IDENTIFICATION.)  
4 BY MR. PEREZ-MARQUES:

5 Q Do you recognize this document,  
6 Mr. Furman?

7 A I do recognize the document, as it  
8 has my name on it.

9 Q And it is an email that you wrote  
10 to Mr. Schroeder on October 29th, 2007 with  
11 the subject line, [REDACTED]

12 A That is what it says, yes.

13 MR. PEREZ-MARQUES: Your Honor, I  
14 move for this to be admitted into evidence.

15 MR. SCHMIDT: No objection.

16 JUDGE SIPPEL: It's received in  
17 evidence then as Comcast Exhibit 510.

18 (WHEREUPON, THE DOCUMENT REFERRED  
19 TO, PREVIOUSLY MARKED COMCAST  
20 EXHIBIT NO. 510 FOR  
21 IDENTIFICATION, WAS RECEIVED IN  
22 EVIDENCE.)

1 BY MR. PEREZ-MARQUES:

2 Q Now, Mr. Furman, in this email you  
3 are describing a customer service problem you  
4 had with the advertiser, [REDACTED] Correct?

5 A That is correct.

6 Q In fact, if you go down several  
7 bullets, you talk about clients following a  
8 call complain about arrogance, rude behavior,  
9 venomous tone, unprofessional action, and  
10 "feel like dirt was thrown in our face". Is  
11 that correct?

12 A That is what is written here, yes.

13 Q You wrote these words. Right?

14 A I did.

15 Q All right. So, now having seen  
16 this, do you recall a time when a significant  
17 client complained about the arrogance and rude  
18 behavior of your team?

19 A From this document, I do read  
20 this, and I do recall this.

21 Q And what happened in this  
22 instance?

1           A       This was specifically concerning  
2   NFL.com. This was an outgrowth of a new  
3   person relative to our team trying to  
4   integrate NFL.com content into the NFL.com  
5   platform for [REDACTED]

6           Q       You sell NFL.com and NFL Network  
7   advertising together, do you not?

8           A       Our team does, yes.

9           Q       Okay. And the buyers who buy them  
10   for a given company are the same buyers.  
11   Correct?

12          A       Not necessarily.

13          Q       The [REDACTED] deals that you have  
14   struck have been [REDACTED] deals for NFL.com,  
15   and NFL Network. Isn't that right?

16          A       Yes.

17          Q       Now, you would agree, wouldn't  
18   you, that treating customers, your advertisers  
19   in a rude or arrogant manner can lead to  
20   losing their business. Isn't that right?

21          A       Potentially.

22          Q       Potentially?

1           A       Yes.

2           Q       Potentially, could lead to keeping  
3   their business?

4           A       These are -- these type of  
5   situations, where clients are looking for  
6   solutions to new and involved platforms,  
7   conversations happen often. This is a daily  
8   tone of business in being able to sit down  
9   with an agency and do things. It's also a  
10   daily tone of our business to try to integrate  
11   some of our creative people into the process.  
12   It goes on at every network, and everyone who  
13   sells advertising. So, in that regard, it's  
14   not terribly unusual to have conversations  
15   where there are two points of view between the  
16   advertiser and the media company. It's my  
17   goal to try to make sure that those proceed as  
18   commonly and calmly as possible, not always  
19   successful, but in the end, work out a remedy.

20          Q       Is it your testimony that it's not  
21   unusual for advertisers on the NFL Network to  
22   complain about the arrogance and rude behavior

1 of your staff?

2 A It is, other than this document  
3 which you showed me, which is point of view  
4 and hearsay.

5 Q It's hearsay? In what sense is it  
6 hearsay, Mr. Furman?

7 A Well, not necessarily, when we  
8 talk about this, I don't believe, and I would  
9 have to review this once again, that I was  
10 actually on this telephone conversation.

11 Q You were only repeating what  
12 someone else had told you?

13 A Well, in the regard that I made  
14 sure I tried to contact the folks that were  
15 involved, both from the client's side and our  
16 side. So, if I've misspoken, it's that I was  
17 not, necessarily, on this particular phone  
18 call.

19 Q And because it's something you  
20 heard from someone else, it might not, in  
21 fact, be accurate. Is that your testimony?

22 A I believe it to be accurate, and

1 as I know it was reported to me.

2 Q You believe it is accurate that  
3 [REDACTED] was complaining about the arrogance  
4 and rude behavior of your team.

5 A If I took the time to write an  
6 email outlining this, I would have taken that  
7 and considered it to be an important part of  
8 what we were doing, and made sure that I  
9 investigated it.

10 Q Now, a moment ago you suggested  
11 that these types of conversations are not  
12 unusual. Is that right?

13 A They're not unusual in the daily  
14 course of business.

15 Q Now, in the bullet that I have  
16 pointed you to that refers to the arrogance  
17 and rude behavior of your team, it says, "All  
18 of the above is standard stuff", and then  
19 continues, "having clients following the call  
20 complain about arrogance and rude behavior is  
21 not", with three exclamation points. Correct?

22 A Actually, what it says is, "All of

1 the above is standard stuff, including having  
2 passion for our product, which relates back to  
3 the technician and the creative side of the  
4 NFL.com personnel involved." Clearly, I then  
5 point out that having our clients call to  
6 complain about that, and not understand their  
7 positioning, is important.

8 Q Following this call, you  
9 identified customer service as a strategic  
10 priority, not -

11 A I believe customer service has  
12 been a priority for us since 2006.

13 Q It's important aspect of retaining  
14 business, and winning new business?

15 A It's an important aspect of our  
16 business.

17 Q Including retaining business, and  
18 winning new business?

19 A Yes.

20 Q Now, you testified earlier that  
21 there are a number of factors besides Comcast  
22 distribution -- you can put that exhibit



1     aside.

2             A       Thank you.

3             Q       That have related to the NFL  
4     Network's current advertising problems. Is  
5     that right?

6             A       Yes.

7             Q       Okay. But you don't mention any  
8     of those in your written direct testimony, do  
9     you?

10            A       I don't believe so.

11            Q       Why not?

12            A       I believe I was asked about those  
13     at a prior time, and I do make mention of one,  
14     if I'm not mistaken, client, [REDACTED] that  
15     cited distribution as the reason that they  
16     would not be renewing their contract with us.

17            Q       [REDACTED] is the same company that  
18     complained about the arrogance and rude  
19     behavior of your team. Correct?

20            A       It is the same company, yes.

21            Q       All right. Now, distribution was  
22     causing advertising problems for NFL Network

1 before Comcast ever repositioned the NFL  
2 Network. Isn't that right?

3 A I don't know what problems  
4 distribution may or may not have had with the  
5 NFL Network. I was dealing with the numbers  
6 that we had in distribution in any particular  
7 season from 2006 on.

8 Q You're not aware of distribution  
9 challenges that the NFL Network had prior to  
10 2007?

11 A I am aware of the distribution  
12 challenges that we had from 2006 on.

13 Q Okay. And prior to 2007, what  
14 were some of those distribution challenges?

15 A As I recall, the NFL Network was  
16 on a fairly positive trend line to increase  
17 distribution, which would have then given us  
18 the opportunity to have our programming seen  
19 by a larger group of individuals, more fans,  
20 and more consumers.

21 Q In fact, in 2006, the NFL Network  
22 was already well behind its plan in terms of